

**IN THE HIGH COURT OF PUNJAB AND HARYANA**

**AT CHANDIGARH**

**Criminal Misc. No.M-33463 of 2020 (O&M)**

**Date of Decision: 26.02.2021**

Harpreet Singh @ Gaggu

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. L.S. Sidhu, Advocate  
for the petitioner.

Mr. Harsimar Singh Sitta, A.A.G., Punjab.

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**HARI PAL VERMA, J. (Oral)**

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

**CRM-25967-2020:**

Prayer in this application filed under Section 482 Cr.P.C. is for exemption from filing original power of attorney.

Prayer for exemption from filing original power of attorney on account of COVID-19 is accepted with the condition that the petitioner shall file original power of attorney within a period of one month from today.

Application stands disposed of.

**Criminal Misc. No.M-33463 of 2020:**

This is third petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.354 dated 14.10.2019 under Sections 15 and 25 NDPS Act registered at Police Station Phillaur, District Jalandhar.

As per the FIR, on 14.10.2019, during regular checking of vehicles near Satluj bridge in the area of Phillaur, one white colour Tata Indigo car bearing registration No.PB-08-BS-9258 was stopped by the police party. In this process, two persons after alighting from the car, ran away. However, the driver of the vehicle i.e. the present petitioner, was apprehended and six plastic sacks containing 100 kg. of poppy husk were recovered from the said vehicle. The persons who ran away were identified as Tajinder Singh and Surjit Singh by SI Bakshish Singh.

Learned counsel for the petitioner has argued that the petitioner is in judicial custody since 14.10.2019 and though challan in the case has been presented but charge has yet not been framed. There is no other case under NDPS Act pending against the petitioner. The petitioner was merely a driver of Surjit Singh, the owner of the vehicle and he was himself present in the vehicle at the time of alleged incident. Thus, the petitioner was not in conscious possession of the contraband in question.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. He does not dispute the custody of the petitioner and the alleged quantity of the contraband recovered from him as well as the fact that there is no other case of NDPS pending against the petitioner.

I have heard learned counsel for the parties.

Admittedly, 100 kg of poppy husk was recovered from the car and the petitioner, being the driver of Surjit Singh, the owner of the same vehicle, was driving the car. Surjit Singh was himself present in the vehicle, though he ran away. Thus, it is a matter of trial as to whether the petitioner was found in conscious possession of the alleged contraband or he was working as driver of Surjit Singh, who reportedly ran away from the spot, but was otherwise traveling in the same car.

Considering the fact that the petitioner is in custody since 14.10.2019 and there is no other case under the NDPS Act pending against him, coupled with the fact that charge has yet not been framed and thus, the trial is not likely to be concluded in near future, this Court deems it appropriate to admit the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

February 26, 2021  
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( HARI PAL VERMA )  
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No